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EU or Russia? Ukraine's recurrent (non)integration dilemma

Today as in the past twenty years the debate whether Ukraine will be integrated in the European Union (EU) or in regional projects in the post-Soviet space led by Russia is still ongoing. In the beginning of his presidential mandate in early 2010, incumbent President Viktor Yanukovich declared that Ukraine would be a "bridge between the West and Russia". At that time, the bridge metaphor was meant to signal a break with former President Yushchenko's exclusively Western-oriented foreign policy that damaged relations with Russia and therefore had to be corrected. Yanukovich's first official visit abroad was to Brussels stressing Ukraine's European choice and integration aspirations, while his first significant (although controversial) foreign policy act was the signing of Kharkiv accords with Russia. Those two moves seemed to balance each other in the spirit of the bridge metaphor. Today the bridge image is forgotten. Yanukovich's main goal for the last three years has been to consolidate his grip on power whereas the foreign policy featured less prominently among his political priorities. On the one hand, this is so due to the awareness that the EU is not able to offer the country a membership prospect any time soon while, on the other hand, Ukraine does not want to be dependent on Russia's policies and interests displayed in post-Soviet space regional integration projects. Therefore the country's leadership sought to preserve its independence from its neighbours and to focus on domestic affairs disconnecting them from the national foreign policy. The end result, however, was that those domestic issues became the stumbling block of Ukraine's relations with both Brussels (that is former Premier Yulia Tymoshenko's trial and imprisonment) and Moscow (that is natural gas price which is related to Tymoshenko's trial and to the country's economic hardship). Both the EU and Russia put pressure on Kyiv and demand that certain conditions are fulfilled in return for economic gains. Moreover, their demands require a choice to be made between an either Western integration or a pro-Russian one. Kyiv does not have a strategy on how to cope with this state of affairs. The only option it is exploring so far is to side with one party against the other but

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ABSTRACT

In 2010 President Yanukovich declared that Ukraine would be a "bridge between the West and Russia". His first official visit abroad was to Brussels stressing Ukraine's European choice while his first significant foreign policy act was the signing of Kharkiv accords with Russia. Those two moves seemed to balance each other in the spirit of the bridge metaphor.

Today the bridge image is forgotten. Yanukovich's main goal for the last years has been to consolidate his grip on power whereas foreign policy featured less prominently among his priorities. This is so because the EU cannot offer the country a membership prospect any time soon while, on the other hand, Ukraine wants to be independent from Russia's regional integration policies. Yet Yanukovich's domestic politics became the stumbling block in relations with both Brussels and Moscow. Kyiv does not have a strategy on how to cope with this situation and any foreign policy decision may affect the domestic power balance.

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this is not a long-term strategy and could be risky. Meanwhile the shaky domestic situation became even more strongly intertwined with Ukraine's foreign policy and any decision in the latter sphere will affect Ukraine's domestic power balance.

The missing integration in the EU

Full integration in the EU is hindered mainly for three reasons. Firstly, the EU is focused on solving its internal problems related to the Euro crisis and cannot dedicate much of its resources to Ukraine. Secondly, its policy towards its Eastern neighbourhood, called EU Eastern Partnership (EaP), is progressing slowly and to some extent it has exhausted its potential while EU officials are not able to advance a better alternative to it. The "more-for-more" approach, introduced in 2011 by the EU Commissioner for Enlargement Stefan Fule and the EU High Representative for Foreign Affairs Catherine Ashton, rendered EU-Ukraine relations loose as it made advancement dependent exclusively on the EaP partner's willingness to commit itself to the EU reform agenda without setting tight deadlines. This approach allows for regional integration at different speed and forms. Finally, any eastward EU enlargement seems unlikely in the foreseeable future which discourages Ukraine (and other states in the post-Soviet space) to undertake costly reform programmes.

Taking into consideration the absent integration prospect, in the last years Ukraine has slowed down somewhat its reform process concentrating its efforts on the domestic arena. Yanukovich's attempts to strengthen further his political power (in view of the 2012 parliamentary and 2015 presidential elections) have led him to limit as much as possible his political rivals' actions and influence¹ and thus to the Tymoshenko's detention, trial and exclusion from the political electoral scene. However, he miscalculated the fact that the process would remain mainly a domestic issue without any external implications. Quite the contrary, the EU exploited that case to compensate for the lack of a real strategy of transformation and integration of its eastern neighbour. Tymoshenko's trial (as well as that of some ministers of her government such as Yurii Lutsenko) became the sole criteria for advancement or lack of advancement of EU-Ukraine relationship. The wide scale lobbying for Tymoshenko in Brussels and by the Western community and mass media (she was even nominated for the Nobel Peace Prize) has additionally reinforced this linkage. The EU has signaled its discontent with Ukraine's domestic developments at various occasions. Besides the boycott of the Euro championship, it refused to sign the Association Agreement (AA) and has postponed to 2013 the EU-Ukraine summit which was supposed to be held at the end of 2012. Furthermore, the EU openly supported her against Yanukovich's government ahead of the parliamentary elections on 28 October 2012. The EU High Representative Ashton stated that the EU pursues three objectives in Ukraine: reform of the judicial system (elimination of the selective justice as EU Commissioner Fule put it); free, fair and transparent elections (Ukraine was not able to deliver on this criteria); re-launching the reform agenda regarding bilateral relations. These goals clash with Yanukovich's power consolidation plans and may undermine his political influence in the long-term.

It is worth noting that the EU concerns for Ukraine were shared by the US as well as. In October 2012 the EU High Representative Catherine Ashton and US Secretary of State Hillary Clinton's

¹ «The parliamentary elections were held according to a new election law that creates favourable conditions for large parties, primarily the ruling Party of Regions. Although the law adopted in November 2011 literally corresponds with basic democratic principles, it contains a number of possibilities for abuse and various interpretations, especially in the context of an unconsolidated democracy. The most important changes are: the introduction of a mixed electoral system, an increase in the electoral threshold to 5% to enter parliament and a ban on participation in elections of blocs of political parties». See I. LYUBASHENKO, *Predictable Continuity: Ukrainian parliamentary elections 2012*, PISM no. 40, October 2012.

wrote a joint letter published in *The New York Times*² where they signaled their (institutional) support for the country's western integration ambitions (compared to a possible shift towards Russia) but required from Ukraine's leadership to deliver on its commitments. «Ukraine's parliamentary elections will be an important bellwether for the state of institutions. [...] We know this is possible because Ukrainians have done it before. Just over two years ago, they elected a new president in what many observers consider the country's freest and fairest national election. With that contest, Ukrainians set their own high standard [...] We are also mindful of Ukraine's broader reform agenda. While some progress has been made, we hope the elections will lead to a vigorous and effective effort by the country's leaders to advance important core reforms [...] The European Union will only be able to move forward with such an ambitious agenda if the democratic rights of the Ukrainian people, including freedoms of expression, political participation, association and media, are respected, the rule of law is put on strong footing, and progress is made on the overall reform agenda. It remains deeply in our common interest to see an independent, prosperous and irreversibly democratic Ukraine that is associated with the European Union»³. The letter is emblematic not only because the US upheld the EU position but also because lately the US has not issued any statement on Ukraine's domestic affairs. It could be interpreted as an indirect reproach vis-à-vis Russia and its current leadership's political practices that, according to some scholars, Ukraine is emulating. In other words, the US involvement is a kind of warning against Ukraine's drift towards Russia's regional integration projects.

Despite all these numerous efforts and campaigns both in Ukraine and in the EU, Yanukovich did not give up to Western pressure and did not release Tymoshenko. He wanted to appear as the country's strong leader but instead of that positive image his regime was depicted by the West in a negative way as non-democratic. Kyiv was neither able to correct it nor to convince the West of the rightfulness of its actions. This fact has predetermined the extremely negative assessment by Western analysts, politicians, observers and institutions of the October 2012 parliamentary elections. Thus the negative image turned out to be the most successful aspect of Tymoshenko's campaign. In fact today the West approaches Ukraine's politics entirely from this perspective and tends to lecture the country on how to advance democratically. That negative reputation affected the credibility of Yanukovich's government and in the mid-term will force him to reach compromises in the process of rapprochement with the EU due to Ukraine's strong dependency on the latter.

It should be noted however that despite the large consensus on the erosion of democratic standards in Ukraine, lately a split has been observed within the EU regarding the "punishment" for the country's shortcomings. Some Eastern European member states such as the Czech Republic, Lithuania, Poland and Slovakia have a milder approach towards Yanukovich and they conceive the signing of the AA in the autumn of 2013 during the EaP summit in Vilnius as the evidence that the EU has not abandoned Ukrainian people and their European choice. «We do not see it [the Agreement] as a present for the Ukrainian government, but more a kind of opening up of perspectives for Ukrainian citizens and imposing a European agenda on the Ukrainian leadership»⁴ (compared to a pro-Russian agenda). In contrast to these countries' position, Sweden, Finland, Denmark and the Netherlands believe the Association pact should be put on ice taking into account Tymoshenko's trial, rigged parliamentary elections and the general lack of compliance with EU benchmarks. For their part, France and the UK are keeping a low profile in the debate while Germany seems undecided. On the one hand Chancellor Merkel voiced her support for the signing of the AA in 2013, but on the other hand, she gave assurances to Tymoshenko's family to get her out

² Hillary Clinton and Catherine Ashton, *Ukraine's troubling trends*, 24 October 2012, http://www.nytimes.com/2012/10/25/opinion/hillary-clinton-catherine-ashton-ukraines-election.html?_r=0.

³ *Ibidem*.

⁴ A. RETTMAN, *EU countries split on Ukraine ahead of Vilnius summit*, EUObserver, 26 November 2012, <http://euobserver.com/foreign/118316>.

of jail and stressed that «there are concrete expectations with respect to Ukraine and that different difficulties could be overcome through dialog»⁵. The division shows that the EU regional policy has to be reviewed as its objectives and means to achieve them are interpreted differently by the EU members. Despite this recurrent EU weakness in its dealing with its eastern neighbourhood, it will be risky and short-sighted for Ukraine to rely exclusively on it to upgrade Brussels-Kyiv relations. In other words, Ukraine should be cautious when exploiting the tiny room for political maneuver stemming from the EU split in order to play the European card against Russia's political leverage. The EU has emphasized its expectations with regard to Yanukovich's regime and if the country wants to avoid the intricate position of being dependent solely on Russia, it will have to comply with certain EU requirements.

A general reluctance to be integrated in Russia's regional projects

In contrast to the EU vague and uncertain offer for future integration, Russia's offer for integration – membership in the customs union between Russia, Belarus and Kazakhstan and from January 2012 in the single economic space – is concrete and not value- and reform-driven. It is based mainly on economic interests but Ukraine's specific social, cultural and historical features have transformed this integration into a politicized issue. Ukraine's presence in the Russia-led project had a threefold meaning. On the one hand Ukraine will diversify the customs union's economic potential and market, while on the other hand it will strengthen the European dimension of the union (Russia is much less interested in reinforcing the Asian vector of the customs union with the possible accession of Kyrgyzstan and Tajikistan). Yet Ukraine's accession/refusal has a symbolic value for Russia as well. After twenty years of inefficient post-Soviet space integration structures initiated by Moscow, today the customs union is considered a successful project of regional integration and Ukraine's membership will be a recognition of this success.

However Ukraine has been reluctant to join any project where Russia's interests and positions are dominant. Therefore it preferred to institutionalize its relations with the customs union while guaranteeing at the same time its independence from Moscow. After declining to become a member of the customs union, it proposed a cooperation formula of 3+1, namely the customs union members plus Ukraine (firmly discarded by the Kremlin) or to sit as an observer in the Eurasian Economic Committee (the permanently functioning governing body of the customs union). All these proposals reflect Kyiv's ambition to remain connected to post-Soviet space regional economic cooperation (and benefit from it) but to escape Russia's direct domination. A move in that direction is the decision to ratify in mid-2012 the free trade zone agreement with the Commonwealth of Independent States (CIS) that currently includes Armenia, Belarus, Kazakhstan, Russia and Moldova. The agreement, based on the principles of the World Trade Organisation, stipulates cutting import duties to a minimum and suggests that export duties be harmonised and eventually abolished. It should be acknowledged that this type of agreement would not have been possible had the EU signed a free trade area agreement with Ukraine first (within the framework of the Association Agreement). To some extent this agreement with the CIS allows Ukraine to benefit from trade with CIS states without becoming a full-fledged member of the customs union and single economic space.

Russia tried, although unsuccessfully, to persuade Ukraine to do some geopolitical concessions and join the customs union. The main instrument to do that was the natural gas price and the country's energy dependence on Russia. In other words, also Russia imposes conditions on Ukraine that render problematic Yanukovich's domestic politics as well as his regional integration options. The Kremlin exploited the fact that gas is a sensitive issue for Kyiv and it affects not only Yanuko-

⁵ See <http://www.kyivpost.com/content/ukraine/polish-prime-minister-association-agreement-between-ukraine-and-eu-to-be-signed-in-november-2013-316114.html>.

vich's credibility and support by the population but also his political and economic decisions as well as Ukraine's relations with the International Monetary Fund⁶ and the EU (see past gas crises when Ukraine was considered as unreliable energy partner to Brussels). Former Russian President Medvedev declared in late 2011 that Ukraine should follow the Belarusian example and receive an "integration discount" for Russian gas if it joins the customs union or cedes control over its gas transit network (Belarus sold its 100% stake in the Beltransgaz company to Gazprom). Control of Ukraine's gas transit system and regional integration in the customs union became two intertwined questions. Moscow knew that the transit system is considered a strategic asset in Ukraine and increasingly it started diversifying its energy routes to the European market (see North and South Stream) diminishing deliberately the value of Ukraine's transit grid in the foreseeable future. Thus it hoped to obtain Ukraine's consent to join the customs union.

Russian gas prices have always been a burden and a central issue for Yanukovich's presidency (and his focus on domestic politics) and he has always strived to modify the unfair conditions of the 2009 gas contract signed by Tymoshenko arguing that the price was way above market price and hence a huge drain on the economy. The Kharkiv accords with Russia in 2010 were an attempt to please Russia (block Ukraine's NATO ambitions by declaring a non-aligned status and extend the lease of the Russian Black Sea Fleet naval base until 2042) and obtain a reduction. The trial against former Premier Tymoshenko is not only a politically motivated process against a political rival but also it is indirectly against Russia inasmuch as it claims that the 2009 accords were legally invalid. Kyiv was confident that the Tymoshenko trial would provide the legal grounds for abrogating the gas contract with Gazprom or for taking the case to the International Arbitration Court in Stockholm. None of these options materialised. Yet Tymoshenko's imprisonment caused uneasy relations with Russia and exposed even to a greater extent Ukraine's vulnerability on the issue. Again, in the summer 2012 Ukraine tried to please Russia granting a regional status to the Russian language but Russia did not interpret that move as equivalent to its objectives. That decision was indeed entirely a domestic issue and not a matter of bilateral relations. As the tactic of apparently 'accommodating' Russia (and so Gazprom) did not lead to the desired effect, Kyiv changed its approach. It started pursuing other options available to put pressure on Russia such as announcing a steep reduction of the volume of Russian gas to be purchased⁷, receiving gas from Europe reversing the gas flow, signing an agreement with Azerbaijan on future gas supplies⁸, and even relying on extracting Ukraine's own gas (the reserves of shale gas in Ukraine are estimated at 7 trillion cubic

⁶ A US\$15.4 billion Stand-By Arrangement programme expiring in December 2012 was approved by the International Monetary Fund in July 2010. Its first review was completed in December 2010, while the second one has been on hold since March 2011 as programme performance has fallen short of expectations. A key structural reform and enactment of pension reform legislation were completed in October 2011 and progress has been made in strengthening the banking sector. However, the authorities' backtracking on their commitment to raise gas and heating tariffs in 2011 has been a key obstacle for the second review, and reforms in other areas as well – including the VAT refund system, social assistance programmes, the corporate insolvency law, FX regulations, resolution of intervened banks – have been delayed or are still incomplete. See IMF Country Report no. 12/315, November 2012, <http://www.imf.org/external/pubs/ft/scr/2012/cr12315.pdf>, p. 5.

⁷ Lately Ukraine's government has made different statements about reduction of the volume of gas purchased from Russia. Both President Yanukovich and Premier Azarov have declared that the country is planning to buy not more than 18-20 billion cubic meters of Russian natural gas in 2013, down from 52 billion cubic meters contracted for 2012. Russia believes that the reduction in purchases contradicts the current contract and has not ruled out court action apart from imposing penalties for the reduced gas imports.

⁸ Natural gas supplies to Ukraine under Azerbaijan's Shah-Deniz Phase-2 project may start late in 2017. The initial volume of gas delivery is set at 2 billion cubic meters but it may gradually increase to 5 billion cubic meters. There are several other options. In particular, if it is economically advantageous and commercially feasible, not only gas from Azerbaijan, but also Turkmen one via TANAP (the Trans-Anatolian gas pipeline is a proposed natural gas pipeline, which will run from Azerbaijan through Turkey to Europe) could be shipped to Ukraine. Other options could be liquefied gas being shipped across the Black Sea.

meters). All these possible solutions relate to the future and they signal both an attempt to find a way out from the gas deadlock with Russia but also to flex muscles in dealings with Russia.

However, lately Russia changed its tactics vis-à-vis Ukraine. In 2011 Russia was extremely active in trying to convince Kyiv to accept its offer (reduction of gas prices in return for Ukraine's membership in the customs union). Following the intricate domestic situation in Russia caused by the opposition protests during and after the parliamentary and presidential elections, in 2012 the Kremlin adopted a strategy of "wait-and-see" towards Ukraine. In other words, it will not be Moscow to force Kyiv to join the customs union but Kyiv will find itself with no other options available but to apply for a membership in the customs union complying with Moscow's conditions. Indeed, Russia did not advance any "new" offer to Ukraine this year. Moscow relies on Ukraine's pragmatic assessment of the concrete benefits the country will obtain from Russia's proposals compared to the EU uncertain integration. It wants both to expand and strengthen regional integration dynamics in view of the upgrade to a Eurasian Economic Union (ideally in 2015) and as a way to gain prestige and credibility as a regional actor. But it ignores the fact that economic integration in Russian regional projects entails for Ukraine economic as well as socio-political compromises that challenge Yanukovich's influence and power.

Ukraine – left all alone?

The Ukrainian Foreign Ministry declared in November 2012 that the European integration remains a priority for Kyiv, whereas relations with the customs union's members are subject to the search for a suitable format of cooperation⁹. Such a statement suggests that the country is trying to preserve its independence from both its neighbours but also that it is playing the EU card against Russia in order to get discounted gas prices. In other words Ukraine is trying to oppose the EU and Russia to one another. This is a short-sighted strategy and cannot be sustainable in the long run because Russia is aware of the EU inability to integrate Ukraine at present and of Ukraine's aversion to fully comply with EU requirements. This situation risks to lead the country towards isolation and greater discrepancy between domestic needs and foreign policy opportunities. A telling example of such kind of isolation is Kyiv's recent disappointment with the lack of interest of the European Union in the modernisation of the country's gas transportation system (GTS) despite the country's accession to the European Energy Charter while suppliers in Russia are building ways to bypass Ukraine. According to the Ukrainian Prime Minister, the EU is not supporting any matter in which Ukraine is interested and in particular, the country lacks the EU's support in the talks between Ukraine and Russia on the revision of gas contracts and the price of gas for Ukraine¹⁰. Ukraine's domestic concerns are tightly associated with its foreign policy decisions and any such decision affects domestic power struggle balances. The problem stems from that fact that at present there is no strategy on how to combine domestic and foreign policy priorities in a balanced way. Sooner or later the country's leadership will be forced to make concessions which will affect domestic power struggles balances (and perhaps Yanukovich's aspiration to be re-elected as president in 2015) and will expose the country's vulnerability to its neighbours' policies.

⁹ *Foreign Ministry: Ukraine's accession to customs union not on agenda now*, 14 November 2012, <http://www.kyivpost.com/content/ukraine/foreign-ministry-ukraines-accession-to-customs-union-not-on-agenda-now-316107.html>.

¹⁰ *Azarov: Kyiv disappointed by lack of EU interest in upgrading Ukraine's gas pipeline system*, 30 November 2012, <http://www.kyivpost.com/content/ukraine/azarov-kyiv-disappointed-by-lack-of-eu-interest-in-upgrading-ukraines-gas-pipeline-system-316993.html>.

Conclusions

Ukraine was until very recently considered by the EU as the leader in terms of progress towards EU integration and the completion of an Association Agreement with Brussels is a telling example. It was depicted as one of the examples of EU's successful transformative power in the post-Soviet space. Yet Ukraine occupies a special place in Russia's political and economic strategies in that region as well. However, in the last three years relations with Brussels and Moscow turned out to be thorny and uncertain. Both Ukraine's neighbours have toughened the conditions Kyiv has to comply with in order to get (economic) integration benefits meanwhile domestic concerns for Yanukovich's government have been heightening. Relations between Russia, Ukraine and the EU cannot be designed as a triangle as the three parties decline to take part in common projects. The country's multivector foreign policy is not viable due to the current domestic difficulties and it seems unlikely that Kyiv will be able to disentangle the domestic problems from its neighbours' policies. Therefore that linkage and its negative consequences will continue to be one of the major stumbling blocks for Ukraine's regional integration. Yanukovich's attempt to side with one of the parties against the other is a risky scenario for Ukraine itself. Although it appears the most likely in the next months, it will damage further Yanukovich's reputation and may limit the room for maneuver even in domestic affairs.

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